

1  
2  
3  
4  
5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**  
7

8 MICHAEL W. ESTES,

9 Plaintiff(s),

10 v.

11 ROBERT GASTON, et al.,

12 Defendant(s).  
13

2:12-CV-1853 JCM (VCF)

14 **ORDER**

15 Presently is the report and recommendation of Magistrate Judge Ferenbach regarding  
16 plaintiff's motion for leave to proceed in forma pauperis, motion for appointment of counsel, and  
17 screening plaintiff's complaint. (Doc. # 9). No objections have been filed and the deadline has  
18 expired.

19 This court "may accept, reject, or modify, in whole or in part, the findings or  
20 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects  
21 to a magistrate judge's report and recommendation, then the court is required to "make a de novo  
22 determination of those portions of the [report and recommendation] to which objection is made."  
23 28 U.S.C. § 636(b)(1).

24 Where a party fails to object, however, the court is not required to conduct "any review at all  
25 . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).  
26 Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate  
27 judge's report and recommendation where no objections have been filed. *See United States v.*  
28

1 *Reyna–Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the  
2 district court when reviewing a report and recommendation to which no objections were made); *see*  
3 *also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s  
4 decision in *Reyna–Tapia* as adopting the view that district courts are not required to review “any  
5 issue that is not the subject of an objection.”). Thus, if there is no objection to a magistrate judge’s  
6 recommendation, then this court may accept the recommendation without review. *See, e.g.,*  
7 *Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge’s recommendation  
8 to which no objection was filed).

9       Nevertheless, this court finds it appropriate to engage in a de novo review to determine  
10 whether to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation  
11 and the underlying briefs, this court finds good cause appears to ADOPT the magistrate’s findings  
12 in full.

13       Accordingly,

14       IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and  
15 recommendation of Magistrate Judge Ferenbach (doc. # 9) be, and the same hereby is, ADOPTED  
16 in its entirety.

17       IT IS FURTHER ORDERED that the clerk of the court shall file plaintiff’s complaint (doc.  
18 # 1-1).

19       IT IS FURTHER ORDERED that the complaint (doc. # 1-1) be, and the same hereby is,  
20 DISMISSED without prejudice.

21       IT IS FURTHER ORDERED that plaintiff, if he chooses to do so, be permitted to file an  
22 amended complaint within thirty-three (33) days from the date of the clerk mails the plaintiff the  
23 court’s order dismissing the complaint, or the case may be dismissed with prejudice.

24       DATED December 19, 2012.

25  
26   
27 UNITED STATES DISTRICT JUDGE  
28